

UNITED STATES BANKRUPTCY COURT
U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF
NEW YORK
Eastern District of New York

2018 APR -5 P 1:26

In Re: SEAN M. MURRAY

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Case No.: 1-17-44157-ess

Chapter: 7 Judge: Elizabeth S. Stong

**MOTION TO STRIKE FOR IMPROPER SERVICE IN REPLY TO
NATIONSTAR'S OBJECTION TO ORDER TO SHOW CAUSE**

SEAN M. MURRAY debtor Pro Se submits the following Motion to Strike Docket Entry no. 50, April 3, 2018, OBJECTION TO ORDER TO SHOW CAUSE TO, AMONG OTHER THINGS, IMPOSE SANCTIONS AGAINST NATIONSTAR MORTGAGE LLC FOR PURPORTED VIOLATION OF THE AUTOMATIC STAY by Michael A. Samuels, Esq. of ROBERTSON, ANSCHUTZ & SCHNEID, P.L. Attorneys for Nationstar Mortgage LLC, for insufficient or improper service of process:

1. On April 3, 2018 NATIONSTAR MORTGAGE LLC ("Nationstar"), electronically filed the Objection to Debtor's Motion for Sanctions and Contempt
2. Debtor provided an email address for a point of contact in Loss Mitigation communications, and Debtor did not intend to consent to service of process by email without access to electronic court filing.
3. The CERTIFICATE OF SERVICE attached to Nationstar's Objection to Order to Show Cause features incorrect contact information for service of process with the Debtor: seanmurray@prodigy.net and 3251 79th St, Unit 4E, Jackson Heights, NY 11372.
4. Debtors address for service of process is: P.O. Box 1110, Albany, NY 12201-1110.
5. The property subject to Loss Mitigation Proceedings is: 35-21 79th Street, Apartment 4E, Jackson Heights, New York 11372, U.S.A..
6. A "willful violation" means that the creditor both knowingly and intentionally took steps prohibited by section 362 while aware of the pending case. Courts have ruled that knowledge of the open bankruptcy is knowledge of the automatic stay. A violation is willful when a creditor acts voluntarily and isn't coerced.
7. The Notice of Appearance and Request for Notice Filed by Miriam Joy Rosenblatt on behalf of Nationstar Mortgage LLC (docket no. 9 filed Aug 24, 2017), and Chandler Williams of

Nationstar's August 22, 2018 letter to Bonnie Filip of the New York State Department of Financial Services Mortgage Division mentioning the Debtor's Chapter 7 petition establishes Nationstar and their Attorney's knowing and willful violations of the automatic stay in that they were clearly aware and informed of the bankruptcy case and automatic stay and Nationstar still sent the notices attached as exhibits to the Motion for Contempt (docket no. 43).

8. If the court were to adjourn the hearing on the Application for an Order to Show Cause, the Debtor would potentially have to contend with another scheduled auction of the property due to the threatened rescission of SLS's Trial Modification Plan Offer upon its expiration on April 1, 2018. Without a determination by the Court and sanctions to enjoin the parties from taking similar actions the Debtor could be required to petition the court again for relief.
9. For all of the foregoing reasons, Debtor respectfully requests that this Court deny Nationstar's Objection in its entirety, issue any appropriate sanctions and grant all other relief as may be just, equitable and proper.

Executed Thursday, April 5, 2018

By: SEAN M MURRAY
SEAN M. MURRAY

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

In Re:

SEAN M. MURRAY

Case No.: 1-17-44157-ess

Chapter: 7

CERTIFICATION OF SERVICE

The undersigned certifies that on Thursday, April 5, 2018, a copies of the annexed papers: MOTION TO STRIKE FOR IMPROPER SERVICE IN REPLY TO NATIONSTAR'S OBJECTION TO ORDER TO SHOW CAUSE; were served by depositing same, enclosed in a properly addressed postage-paid envelope, in an official depository under the exclusive care of the United States Postal Service within the State of New York, upon:

1. Richard J. McCord, Chapter 7 Trustee
Certilman Balin Adler & Hyman
90 Merrick Avenue
East Meadow, NY 11554
2. Robert A. Gavin, Jr., Clerk of the Bankruptcy Court
271-C Cadman Plaza East, Suite 1595
Brooklyn, NY 11201-1800
3. Miriam Rosenblatt, Attorney for Nationstar Mortgage LLC
Robertson, Anschutz & Schneid, P.L., Bankruptcy Department
6409 Congress Avenue, Suite 100
Boca Raton, Florida 33487
4. Ehret Anne Van Horn, Esq., Attorney for Specialized Loan Servicing, LLC
Gross Polowy, LLC
1775 Wehrle Drive, Suite 100
Williamsville, NY 14221

Dated: Thursday, April 5, 2018

By: SEAN M MURRAY
SEAN M. MURRAY